

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13316 of 2013

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Uncle Foundation Through Secretary Mohalla Bangali Tola At And P.O. Rajgir,
District - Nalanda, Pin 803116

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Social Welfare Department, Govt. Of Bihar Old Secretariat, Patna - 15
3. The Director, Social Welfare Department, Government Of Bihar, Old Secretariat, Patna - 15
4. Niskata Ayukat, Social Welfare Department, Government Of Bihar, Old Secretariat, Patna - 15
5. District Magistrate, Biharsharif, District - Nalanda
6. District Welfare Officer, Biharsharif, District - Nalanda

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. JAYRAM SHARMA

For the Respondent/s : Mr. Kuber Pathak, AC to SC 14

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL JUDGMENT

Date: 11-04-2016

Heard the petitioner appearing in person as well as the State.

More than one counter affidavit have been filed. However, relevant facts have been referred from the third counter affidavit (titled as supplementary counter affidavit) filed on behalf of the respondent no.4.

The petitioner is a Non Governmental Origination (NGO) having its head office at Rajgir, Nalanda. Vide Annexure-1, it is registered under the Societies Registration Act, 1860 as also carries registration/approval under section 12A/80G of the Income Tax Act and section 6(i) of the Foreign Contribution (Regulation) Act, 1976. The State respondent in the Department of Social Welfare issued notice (Annexure-5) calling upon the desirous person(s)/parties for registration under section 52 of The Persons with Disability

(Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (for short 'the Act'). Although diverse prayers have been made but this Court would only examine the claim of the petitioner made under section 52 of the Act. For remaining prayer(s), liberty is granted to represent before the appropriate/competent authority for taking appropriate decision on the application of the petitioner in accordance with law.

The petitioner has contended referring to the provisions contained in section 52 of the Act that upon an application filed in this behalf the State respondent is obliged to grant registration and in case of refusal to pass appropriate order and communicate the same but after affording an opportunity of hearing. In this connection, he has heavily relied on the proviso to section 52 (2) of the Act.

In the counter affidavit the respondents have enclosed the inquiry report of the Sub-Divisional Officer (part of Annexure-A) as also the communication of the respondent District Magistrate to the Disability Commissioner for Disability. The counter affidavit is, however, silent on whether the registration on the basis of the report was granted to the petitioner or refused. It is stated that till date the respondents have neither granted the registration, as requested, nor refused the same which has been communicated inasmuch as no notice has been received by him from the concerned respondent.

On a consideration of the rival submissions it appears to the Court that the matter concerning the registration or otherwise of the petitioner is pending consideration before the Disability Commissioner or the government in the Department of Social Welfare. Any such application filed requires examination and disposal strictly in accordance with the provision(s) contained in section 52 of the Act.

Taking into account the aforesaid facts, the writ application is disposed of by directing respondent no.2 and/or the respondent no.4(as the case may be) to consider the proposed application of the petitioner in the light of the attending facts of the case and take appropriate decision thereon as quickly as possible, preferably within six weeks from the date of receipt/production of a copy of this order along with fresh representation before the respondent(s).

(Kishore Kumar Mandal, J)

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